

MEMORANDUM FOR:
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ORPA / EAST EUROPE

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INPUT TO NIE ON LAW OF SEA

Maritime Claims

African coastal states have a wide variety of maritime claims and even wider variety of motives for making such claims. The record of states making frivolous changes is sufficient to caution against making firm predictions about future actions. Nevertheless, there is a high level of consensus among African states that their coastal resources--especially in fishing--should no longer be exploited for the benefit of outsiders. Failure of the Law of the Sea conference to come up with broad international agreement would probably be followed by unilateral extensions of the territorial waters of African states. In few cases, however, do the Africans have credible enforcement capability; their reaction to infractions would most likely consist of political pressure in various international forums.

Seychelles

This relatively new island country inherited its current 3-mile territorial sea boundary from its former

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British rulers. While we have no reporting on the subject, it seems likely that the Seychelles ~~would~~^{will} at some point take unilateral action to extend its maritime claims to the limit prevailing in nearby countries, *especially in view of the government's interest in exploiting nearby fishing grounds.*
Ivory Coast

This conservative and relatively wealthy African country has consistently supported the principle of international rather than unilateral action on Law of the Sea matters. It has legislation pending on extension to a 200-mile territorial sea, but prefers to hold off passage until the outcome of the Law of the Sea conference is clear. Ivory Coast is likely to support--though not to take the lead in pushing--a general African decision to declare a 200-mile territorial zone in order to maintain sovereignty over seabed resources.

Sao Tome and Principe

No information.

South Africa

In April the government of South Africa introduced legislation to extend its territorial waters from 6 to 12 miles, with a 200-mile fishing zone. This action, especially in regard to the fishing zone, was taken in

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response to the domestic fishing industry which cited the examples of the US, Canada, and the EC and stressed the need to prevent foreign fishing operations from moving out of newly prohibited areas into South African waters.

Benin

Although some confusion still surrounds the issue, Benin apparently extended its territorial seas from 12 to 200 miles in April 1976. It cannot enforce such an extension. Law of the Sea is basically a marginal issue here, but the government views it--as it does other international issues--as a struggle between developed and developing nations. Its move to extend its territorial seas has been referred to as "anticipating unilaterally" the Law of the Sea Conference.

Comoros

When this island nation became independent in July 1976 it issued a communique confirming its claims to a 12-mile territorial sea and a 200-mile economic zone. It justified its claims by citing its ^{paucity} ~~poverty~~ of land resources.

Equatorial Guinea

This small radical country has no stated position on Law of the Sea. Its ongoing quarrel with Gabon over ownership of some islands might induce it to extend its current 12-mile territorial sea.

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Ethiopia

The ruling military council has taken a pragmatic approach to implementing policies in the international field. In the early phases of the Law of the Sea negotiations, Ethiopia stated a preference for a uniform world-wide limit to territorial seas that would be "as reasonable as possible." The regime has grown progressively more radical and less interested in broad legal questions. Its coastal areas are in Eritrea, a province in which a secessionist guerrilla war has been in progress for some years. Any significant change in Ethiopia's claims regarding territorial seas will be linked to the outcome of that struggle.

Kenya

The moderate government of Kenya claims to have been associated from the beginning with formulation of the concept of the international establishment of a 200-mile exclusive economic zone and insists that it wishes to see the Law of the Sea conference act on it. Nevertheless, the Kenyan parliament in March 1975 passed a bill to protect its resources on the continental shelf. Kenyan spokesmen have indicated that their country will declare its own 200-mile territorial sea limit if the conference

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fails to come up with a satisfactory solution, the delegates representing Kenya are young foreign-trained experts who may be ahead of their government on this issue. Few political leaders have expressed interest in a limit wider than the 12-miles decreed in 1969, largely because Kenya has no capability to patrol beyond that and because the natural wealth of the coast lies within it.

Mauritius

Although it currently claims only a 12-mile territorial sea, Mauritius says it will insist on a 200-mile fishing and economic zone and will not sign any convention that does not contain this vital point. Mauritius' sensitivity to the fact that many new states had not participated in formulating traditional Law of the Sea makes it particularly demanding on the question of ocean rights for islands. The government favors steps to strengthen its claim to fishing rights in contiguous waters, even beyond 200 miles.

Mozambique

Mozambique announced, in a decree dated August 19, 1976, what it referred to as minimum measures to safeguard the rights and interests of the Mozambican people and to defend its maritime areas (12-mile territorial sea and 200-mile economic zone) from plunder and other abuses. The decree

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also stated that Mozambique did not plan to make any "controversial claims" while the Law of the Sea conference was in progress, but had decided that it must establish its position in order to protect its interests. Episodes with foreign fishing trawlers on its waters in 1975 and the resumption of off-shore oil prospecting in 1974 probably influenced the decision to issue the decree.

Togo

Togo has claimed a 12-mile territorial sea since 1964, but has no specific laws or regulations to cover these claims and has made no apparent effort to enforce them. It supports international community control of sea resources but, with the failure of the OAU and the UN to develop a common stand, Togo has felt free to defend its own position. It says it will extend its territorial waters to 200-miles if no agreement is reached. While ^{it claims} ~~claiming~~ to speak as "a victim of colonialism," its decisions have been pragmatic rather than ideological.

Zaire

Zaire, a large and mineral-rich country with a short coast-line, is deeply concerned about access to the high seas off its coast and free movement of its vessels and products past the coasts of many other countries. ^{It also wishes to protect modest offshore oil deposits.} While

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Law of the Sea matters are normally handled by the Ministry of Foreign Affairs, key decisions relating to them are made at the highest levels of the government. Zaire's preference probably is for a 200-mile territorial sea provided there is international agreement guaranteeing free passage for commercial vessels, but it does not appear firmly committed to this stand. As a minimum, it favors a 200-mile economic zone.

Angola

In November 1975, Angola claimed by proclamation a 20-mile territorial sea and a 200-mile exclusive fishing zone. Its coastal waters are rich in fish, which draw foreign fishing boats. Angola says it is willing to negotiate fishing agreements with foreign states and it signed an accord with the Soviet Union in 1976. In January 1977, it issued a "serious ^Warning" to fishing boats from Spain, Zaire, Japan, and South Africa which allegedly entered its waters illegally. While Angola ^{se}ems determined to safeguard its fishing areas ^{and its offshore oils}, enforcement would probably require Soviet or Cuban assistance.

Congo

Congo has not defined its position on Law of the Sea. It has, however, unilaterally extended its territorial seas on several occasions. In 1969, it claimed 12-miles; this

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was increased to 15^{1/2} miles the following year; in 1971 it raised its claim to 30^{1/2} miles and imposed a tax on foreign fishing. Congo has significant offshore petroleum reserves.

Ghana

Ghana is one of the relatively few African countries which has a significant fishing industry. It extended its territorial sea to 30^{1/2} miles in late 1972, shortly before the Law of the Sea conference got under way. At the same time, it enacted legislation establishing a 100-mile zone for fish conservation and state security--though the latter has not been enforced. These measures were opposed by the technicians dealing with the negotiations, but were adopted by the ruling ^{military council} ~~National Redemption Council~~. They apparently were in response to similar actions ^{by} ~~for~~ other West African states. Ghana will ^t tend to adhere to positions taken by the African states as a group, but its final decisions will be based on its own national interests.

Nigeria

Nigeria's Law of the Sea negotiators are technicians who have consistently advocated more rather than less coastal state control over all activity in territorial seas, an exclusive economic zone, and a strong voice for the developing world. They are advocates of a "what's in it

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for Nigeria" line, but even so they tend to be outflanked at home by a highly nationalistic press. Nigeria's current territorial sea limit of 30² miles² apparently represents a pull-back from an even broader proposed extension. While Lagos prefers to await the outcome of the conference before taking further action, there are elements pushing for further protectionism for fishing and for offshore oil. It would be difficult to change a decision by the military government along these lines once it has been made.

Cameroon

In December 1974, Cameroon unilaterally extended its territorial waters from 18 to 50² miles. This action was unexpected, and taken without consultation with the country's Law of the Sea negotiators. It probably was inspired by the government's desire to maximize Cameroon's area^{of} mineral and fishing exploration and by a politically perceived need to enhance its rights and claims vis-a-vis Nigeria and Equatorial Guinea.

The Gambia

The Gambia seems prepared to go along with any African consensus on major Law of the Sea issues. Its peculiar geographic relationship with Senegal--the country is essentially a river valley surrounded on three sides by Senegal--

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colors its decisions, however. Its major concern is protection of its fisheries, and it has signed a number of bilateral agreements in this field. The Gambia's current claims are somewhat ambiguous due to poor drafting of its legislation, but it appears to claim a 50-mile area as both territorial sea and fishing zone.

Madagascar

Madagascar since 1973 has claimed a 50-mile territorial sea and an exclusive economic zone of 100-miles beyond that. This action was taken by a previous regime, but there are few indications that the present government is interested in making any changes in this field. At most, Madagascar may add another 50-miles to its claimed economic zone.

Tanzania

While the Tanzanian delegation to the Law of the Sea conference has been an outspoken defender of the views of the developing states, the government itself is more moderate. Tanzania feels that as much of the coastal sea as possible should be declared internal waters for security reasons--the islands of Zanzibar and Pemba are integral parts of the country--but it is less concerned about extending its economic zone. The current claim of a 50-mile

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territorial limit was adopted in 1973 as a bargaining tactic; it could be revised in either direction if circumstances appear to warrant change.

Cape Verde

No information.

Gabon

Gabon has an extensive coast rich in offshore oil and fish. It seeks to extend its exclusive rights as far as possible, and it is more insistent on this point than any other African country. Its present claim of a 100-mile territorial sea with a 50-mile additional fishing zone was adopted in late 1973--the third expansion in a period of less than two years. Gabon stated at the conference of 77 in Lima in 1971 that states have an inalienable sovereign right to set limits of jurisdiction over adjacent seas according to whatever criteria they choose. Its action in extending its claims in 1973 may have been due to resentment over what it felt was pressure from the major maritime powers interested in limiting territorial claims and favoring developed countries. OAU ~~decisions~~ ^{opinions} have little effect on Gabon--only France has any influence. In most instances, Gabon will pursue its own narrowly construed interests--regardless of the opinion of others.

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Guinea

Guinea in 1964 claimed a 130-mile territorial sea; it also maintains the right of "permanent national sovereignty" in any economic zone. It has said it will make no additional zonal claim pending the outcome of the Law of the Sea conference, but indicated that it ultimately will accept nothing less than a 200-mile territorial sea. While the reasons given for Guinea's claims include protection of continental shelf resources and fishing, The main motive appears to be national security. ~~[The present limit was adopted in the wake of a Portuguese-sponsored invasion in 1964, and]~~ Guinea still simply does not want hostile foreign vessels nearby.

Guinea-Bissau

No information.

Senegal

Senegal extended its territorial sea claim from 18 to 150⁹ miles in May 1976. It also claims a 200-mile economic zone. While the Senegalese civil servants who have been the negotiators at the Law of the Sea conference have been dedicated to a successful outcome of the negotiations, they appear to have been over-ruled by internal political pressures from fishing interests. Senegal has the largest

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coastal fishing industry in Africa and has recently expanded its distant water fishing fleet as well. The government speaks of the "defense of maritime resources from superpowers" and seems determined to exclude foreign states--notably South Africa, the USSR, and Japan--from fishing off its coasts. It has some patrol and enforcement capability.

Liberia

Early this year Liberia adopted a 200-mile territorial sea in place of the 12-mile territorial sea and 200-mile fishing zone it had previously claimed. The government's action appears to have been taken precipitously in reaction to Sierra Leone's seizure of some Liberian fishing boats. Liberian leaders are aware of their isolated position and seem willing to work out a "reinterpretation" while being "very flexible" about pressing their claims. Liberia is sensitive to OAU views and also listens to advice from the US. It generally favors freedom of the seas, primarily because the Liberian flag of convenience program is a large revenue producer which it would not wish to jeopardize. The president's family has interests in the fishing industry.

Sierra Leone

Sierra Leone adopted a 200-mile territorial limit in July 1971. ~~[It views itself as a socialist state intent on]~~

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~~Developing its resources and~~^{It} preaches the right of every sovereign state ^{to develop its resources and} to decide the limit of its ~~own~~ territorial waters. While basically a follower of other African countries in foreign policy matters, Sierra Leone recognizes that it is in a special situation regarding its rich fishing areas. Since the early 1970's, it has signed several bilateral fishing agreements with other states and instituted royalty fees for fishing in its territorial waters. Its enforcement capabilities over its claimed 200-mile area are minimal.

Somalia

Somalia shifted in September 1972 from a 12-mile to a 200-mile territorial sea, with a guaranteed right of innocent passage. The timing of the change appears to have been related to Somali efforts to develop a fishing industry, though the government regards its ^Oports and coastal waters as extremely sensitive military areas. In its hasty action, Somalis apparently overlooked the implications of including the Gulf of Aden and the entry to the Red Sea in ~~their~~^{its} territorial waters. While a new law reportedly is being drafted, the 200-mile extension remains in effect. The Somali government is unable to police such a zone.

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"Creeping Jurisdiction"

The African "key states"--Kenya, Nigeria, Senegal, and Tanzania--are all fairly moderate, though they represent a mix of socialist and capitalist, and military and civilian governments. Their delegates to the Law of the Sea conference have pushed for a comprehensive international agreement. Nevertheless, their governments--except for Kenya--have already taken unilateral action and hence cannot wholeheartedly condemn "creeping jurisdiction." Of the four, Senegal and Nigeria have serious interests at stake and will be willing to take whatever measures they deem necessary to protect their respective offshore fishing and mineral rights.

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